



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 550-99
14 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) BUPERSINST 1900.8

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Naval Reserve, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 4 December 1992.

2. The Board, consisting of Mr. Bartlett, Mr. Swarens, and Mr. Hogue, reviewed Petitioner's allegations of error and injustice on 17 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 10 August 1990 at age 30. He reported to active duty on 5 December 1990 for a two year period of active duty. At the time of his enlistment he had completed 13 years of formal education.

d. On 4 December 1992 Petitioner was honorably separated and transferred to the inactive Naval Reserve. At that time he was

assigned a reenlistment code of RE-4. During this period Petitioner was not the subject of any disciplinary action. While not in the record, on 9 August 1998 Petitioner should have been honorably discharged from the Naval Reserve but not recommended for reenlistment.

e. Reference (b), which was issued on 28 June 1993, states that an individual who is separated at the expiration of active obligated service and not recommended for reenlistment, will be assigned an RE-4 reenlistment code. That reference also authorized an RE-7 reenlistment code, which may be assigned to a Naval Reservist completing a two year period of active duty.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board considered Petitioner's overall record while he was on active duty and noted it was free of any disciplinary action. The Board notes that Petitioner received the only reenlistment code authorized under regulation in existence at the time. However, despite the fact that reference (b) did not become effective until after Petitioner's discharge, the Board believes it should be applied retroactively to this case. Therefore, the Board concludes that although the reenlistment code assigned to Petitioner was proper at the time, it now constitutes an injustice and should be changed as of the current date.

The Board further concludes that a copy of this decisional document should be filed in Petitioner's record so reviewers will understand the rationale for the corrective action taken.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that the RE-4 reenlistment code assigned on 4 December 1992 has been changed to an RE-7 reenlistment code, as of the current date.

b. That the record be further corrected by changing "not recommended for reenlistment" assigned on the discharge of 9 August 1998 to "recommended for reenlistment".

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's

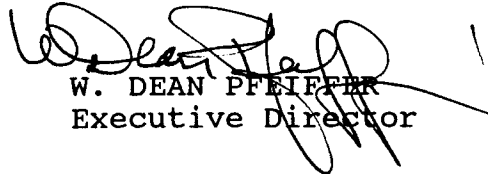
review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director